

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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1 MARCY C., pseudonomously,

Case No.2:24-CV-2027 JCM (MDC)

2 Plaintiff(s),

ORDER

3 v.

4 MGM RESORTS INTERNATIONAL, et al.,

5 Defendant(s).

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13 Presently before the court is a motion to dismiss filed by defendants Extended Stay
14 America, Inc., ESA P Portfolio L.L.C., and ESA P Portfolio Operating Lessee LLC (collectively
15 referred to as “ESA defendants”). (ECF No. 136). Plaintiff McKenzie Keller filed a response.
16 (ECF No. 139).17 “[An] amended complaint supersedes the original, the latter being treated as non-existent.”
18 *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967), *overruled on other grounds by Lacey v. Maricopa*
19 *Cty.*, 693 F.3d 896 (9th Cir. 2012). The ESA defendants filed the motion to dismiss plaintiff’s
20 prior complaint (ECF No. 136). However, alongside its response, plaintiff filed an amended
21 complaint that is now the operative complaint in this action. (ECF No. 138). The ESA defendants
22 have not filed a motion to dismiss plaintiff’s amended complaint.

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I. Conclusion

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that the ESA defendants' motion to dismiss the prior complaint (ECF No. 136) be, and the same hereby is, DENIED as MOOT.

DATED October 29, 2025.

James C. Mahan
UNITED STATES DISTRICT JUDGE